

REMARKS/ARGUMENTS

1. Claims 1-8 are pending in this application; claims 2-8 have been canceled, and new claims 9-14 have been now added.
2. Claim 1, rejected under 35 USC 103, over Forbath, Fresquez and Del Principle et al, recites: "...the sound port positioned in the upper portion of the enclosure case in a position to be non-covered by a hand holding the case by the lower portion thereof." Del Principle et al teaches that the speaker, item 40, is positioned on the lower portion of the device which positions it so as to be covered by the hand of the person holding the device. Clearly, it is well known to hold such devices by the lower portion which is adapted for such and provides advantages, as in Del Principle et al where holding by the lower portion allows visibility of the upper portion's readout device. Likewise, in a childbirth monitor as in the instant invention, the placement of the speaker is advantageously positioned in the upper portion so as not to muffle sounds therefrom by the hand holding the device. The prior art, however, as shown by Del Principle et al, teaches away from this enablement, which provides important advantages during the childbirth process when the user may not be fully aware of external sensory stimulation such as sounds. For this important reason, claim 1 distinguishes and is in condition for allowance at this time. This enablement could not be considered to be obvious in light of contradictory design by Del Principle et al.
3. The Forbath reference 4493043 discloses a birthing practice timer providing a readout of calculated contraction durations and intervals; setting up of a limit enabling contraction recording; use of duration and interval data in the calculation and signaling of expected contraction starts; simulation of duration and interval in practice patterns and signaling thereof; storage of a plurality of practice patterns and selection therefrom. This reference teaches a device primarily designed for practicing childbirth and which is useful in timing actual childbirth contraction durations and intervals. The device produces an audible when practice contractions start and stop and also when the next contraction is predicted to start. Forbath does not teach an alert (alarm) function and does not teach the matching of expected conditions with actual conditions. The Fresquez reference 4711585 teaches a breathing synchronization device enabling selection of breathing patterns; manual-start and stop; measuring and displaying time between alternate manual actuations; and accumulating counts proportional to elapsed time. Fresquez does not use durations or quantities, but only intervals in matching. In this sense, Fresquez teaches away from a full matching of contraction sequences and quantities. Neither of these references teach a method of matching an actual childbirth contraction experience, measured as durations, intervals and quantities of contractions, against a stored alert (alarm) set of contraction conditions in order to alert a user to the fact that a predetermined and preprogrammed likely state of labor, as determined by a doctor, has been entered. Clearly, Forbath teaches the use of analytical prediction to anticipate the initiation of a next contraction, but this is a very minor result and cannot be considered to anticipate the matching of sequences of durations, intervals and quantities of contractions. Neither reference takes into account the matching of all three

parameters: duration, interval and quantities of durations and intervals that meet a doctor's requirement. Therefore, claim 9 clearly distinguishes over the references for these reasons and for the ability to be used in three modes: practice, labor timing and alert. Claim 9 is now in condition for allowance and for similar reasoning, the claims dependent thereon (10-14).

4. The earlier filed provisional application demonstrates, in its logic flow diagrams and other figures and its description, that the present enablement is considerably more complex than the Forbath and Fresquez enablements. This is clearly because of the alert function, which requires matching an alert set with an actual set of contractions through a logic operator.
5. It is noted that no new matter has been added into the new claims that is not found in the originally drafted specification in antecedent form.
6. A petition and fee for extension of time in the present response of 1 month is enclosed herewith. Therefore this amendment is timely filed as of the date of deposit shown below.
7. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Frank P. Forbath

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For: AN IMPROVED MEDICAL TIMING SYSTEM FOR USE BEFORE AND DURING
CHILDBIRTH LABOR

Commissioner for Patents

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following papers are being facsimile transmitted to the Patent and
Trademark Office at (703) 872-9318 on the date shown below:

Amendment (5 pages)

Petition For Extension of Time (1 Page)


Credit Card Payment Form (1 Page)

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Janice R. Kuhm

May 29, 2003

Date


Signature